

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -DECEMBER 4, 2007- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:53 p.m.  
Councilmember Matarrese led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers deHaan, Gilmore,  
Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(07-561) Park Street Business Association Proclamation.

Mayor Johnson read and presented the Proclamation to Lars Hansson.

Councilmember Matarrese thanked Mr. Hansson for planting daffodils.

Mr. Hansson thanked Council for the proclamation.

Councilmember deHaan inquired how many bulbs were planted.

Mr. Hansson responded 2,000 bulbs were purchased; stated approximately 1,000 bulbs were planted on Park Street.

CONSENT CALENDAR

Mayor Johnson announced that the Minutes [paragraph no. 07-562], the recommendation to accept the Annual Review of Public Art Ordinance [paragraph no. 07-564], the recommendation to accept Affordable Housing Ordinance Annual Review [paragraph no. 07-566], and Resolution Amending Resolution No. 12121 [paragraph no. 07-569] were removed from the Consent Calendar for discussion.

Councilmember Gilmore moved approval of the remainder of the Consent Calendar.

Vice Mayor Tam seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(07-562) Minutes of the Special City Council Meetings held on November 13, 2007 and November 19, 2007; and the Special and

Regular City Council Meetings held on November 20, 2007. Approved.

Councilmember Gilmore requested that clarification be made on Page 5 of the November 20, 2007 Regular City Council minutes; stated the context was that the Museum Board needs to have a discussion regarding educational goals versus fund raising goals and strike a balance between the two.

Councilmember Gilmore moved approval of the Minutes with additional language on Page 5 of the Regular Minutes.

Vice Mayor Tam seconded the motion, which carried by unanimous voice vote - 5.

(\*07-563) Ratified bills in the amount of \$1,603,461.02.

(07-564) Recommendation to accept the Annual Review of Public Art Ordinance.

Councilmember deHaan stated that Council received an Off Agenda Report that described various projects; Council inquired whether there are funds in the Public Arts Fund; Council did not set a \$50,000 benchmark; Council requested that the matter be brought back to make a determination on funding sources; Council needs to review details on how art funds would be applied; requested clarification of the \$50,000.

The City Manager stated art fund allocations were reviewed; approximately \$13,000 could be spent on the Public Arts Grant Program; staff would come back to Council regarding funding sources after the program is established and the criteria are developed; money could come out of reserves; Council would need to take action on the matter.

Councilmember deHaan stated that funds would need to come out of reserves or some other funding if Council decided on a total grant program of \$50,000.

The City Manager stated the amount could increase; staff would continue to provide updates.

Councilmember deHaan inquired whether Council would receive a report on the Grant Program, to which the City Manager responded in the affirmative.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by

unanimous voice vote - 5.

(\*07-565) Recommendation to accept the Impact Fee Report for Police and Fire Services. Accepted.

(07-566) Recommendation to accept Affordable Housing Ordinance Annual Review.

Former Councilmember Barbara Kerr, Alameda, stated Affordable Housing discussions always address money and building; lower income neighborhood preservation is never discussed; emphasis should be given to preservation.

Mayor Johnson inquired whether former Councilmember Kerr was talking about existing neighborhoods and issues such as home additions.

Former Councilmember Kerr responded huge planned projects could be a possible intrusion in her neighborhood; a Planning Board Member suggested moving the Wang Project west of Sherman Street; another Planning Board Member suggested running all the streets northward to the Beltline; traffic protection was discarded.

Councilmember Matarrese moved approval of the staff recommendation.

Councilmember Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(\*07-567) Recommendation to accept the Annual Review of the Citywide Development Fee and the Fleet Industrial Supply Center (FISC)/Catellus Traffic Fee. Accepted.

(\*07-568) Recommendation to appropriate \$17,676 in Measure B Bicycle and Pedestrian Improvement Funds as the required local match for accepting a Bicycle Facility Program Grant from the Bay Area Quality Management District. Accepted.

(07-569) Resolution No. 14161, "Amending Resolution No. 12121 Setting the Order of Business of City of Alameda City Council Meetings." Adopted.

Councilmember deHaan stated currently any Councilmember can place any subject matter on the agenda; the proposal would eliminate said process; that he does not have a problem with Councilmembers identifying what they want to place on the agenda; one of the actions [outlined in the staff report] is no action; after a matter gets to Council Referral, the Council can decide that it does not want to hear the matter and the issue would never get placed on the

agenda in any form; the current system is not broken; that he does not see a need to do this [add Council Referral]; it [Council Referral] takes away the latitude that Councilmembers all have--the prerogative of placing matters on the agenda; that he is not sure that he is in favor; removing the [staff report] action b (1) "no action" might be useful.

Mayor Johnson inquired whether Councilmember deHaan sees the issue as limiting Council's ability to put things on the agenda.

Councilmember deHaan responded in the affirmative; stated it [Council Referral] is going to place it [the matter] not even as a real agenda item; it [the matter] is going to be a Council Referral.

Mayor Johnson stated it [the proposal] pretty much follows the current practice; now a Councilmember brings a matter up under Council Communications and if there is consensus the matter is brought back as an agenda item; inquired whether said process is the current practice.

Councilmember deHaan responded in the negative; stated matters are not voted upon under Council Communications; the war resolution was the only situation voted upon, which came from the community itself.

Mayor Johnson stated the Council acts via consensus.

Councilmember Matarrese stated that he cannot recall ever going to the City Manager and requesting a matter be placed on the agenda; what happens is Councilmembers have brought up items under Council Communications and the Council as a body has directed the City Manager to place the matter on the agenda; this [the proposal] formalizes the process.

Mayor Johnson stated that she sees the matter as formalizing what has been done.

Councilmember deHaan stated former Councilmember Daysog has done it [placed matters on the agenda] quite a few times; a few times former Councilmember Daysog would say that he wanted a matter to be part of the agenda.

Mayor Johnson stated not that she was aware of; that she served on the Council with former Councilmember Daysog and she does not recall that [Councilmember Daysog putting matters on the agenda].

Former Councilmember Barbara Kerr, Alameda, stated that she recalls

going to the City Manager and requesting that matters be placed on the agenda; the workshop when the matter was discussed did not have public input; when she was the City's representative to League of California Cities (LCC), Councilmembers from the few cities with said provision indicated it worked out to be a gag order; if the majority of Council prevents a Councilmember from putting something on the agenda, it would disenfranchise the people who elected that person; furthermore, people interested in the issue would have to come to two Council meetings: one to discuss placing the matter on the agenda and one to address the matter on the agenda.

Vice Mayor Tam stated as the LCC representative, she learned from other cities, such as Palo Alto and Fremont, that the process helped increase public awareness and transparency about why certain things get on the agenda and others do not; having the formalized process helps provide fuller Council discussion of issue and helps guide and direct priorities.

Councilmember Gilmore inquired whether Councilmembers would have to complete a referral form if interested in a topic raised by a member of the public at a Council meeting; questioned what the proposal does to the Council's on the fly consensual process.

The City Manager responded the process allows staff to provide cost information and whether the item would change priorities or work plans.

Councilmember Matarrese stated the process does not have anything to do with cost and addresses whether or not a matter would be placed on an agenda; Councilmember Gilmore's point was if a speaker raises an issue and there is Council consensus, the matter would be placed on an agenda at a future time; it [the proposal] puts in writing what is now handled under Council Communications; the Council makes the formalized vote on placing the matter on the agenda.

Councilmember Gilmore stated that she sees two distinct processes; the [referral] form would be used if a Councilmember has an idea to be researched; however, asking a member of the public to go through the same hoops that Councilmembers go through is not fair; former Councilmember Kerr's point is well taken; it takes a lot to get people to come to City Hall or call, whereas, Councilmembers are here and have contact with staff.

Mayor Johnson stated Council can make it clear that Council is intending to do so; if a speaker conveys a great idea and the majority of Council requests follow up, the matter could be brought back.

The City Manager stated that she was addressing when individual Councilmembers make a request.

Councilmember deHaan inquired how many times individual Councilmembers have brought forward an agenda item in the last year; that he does not believe Council has done so.

Mayor Johnson stated Council has done so a number of times, by consensus, under Council Communications.

Councilmember deHaan stated it [requesting a matter be placed on an agenda] has been done within Council Communications; with Council Referrals, Councilmembers would be prohibited from talking about matters under Council Communications.

Mayor Johnson stated matters cannot be discussed under Council Communications.

Councilmember deHaan stated in the past one individual Councilmember was able to put a matter on the agenda.

Vice Mayor Tam stated there are provisions to do so [place a matter on the agenda] in the City's Municipal Code, provided that the matter is provided one week in advance.

Councilmember deHaan stated said provision is no problem; that he does not think Council wants to stifle it [the provision] by bringing a matter to a vote initially to see if Council wants to discuss the issue; it [the proposal] is not fair and not in the best interest of anyone.

Councilmember Gilmore inquired whether the proposal affects Council's ability to call for review any decision of a board or commission.

The City Manager responded in the negative; stated the City of Fremont's model was designed to place a matter on the agenda that might require a change in work plans or a change in direction; the matter would be placed under Council Referral, rather than having Councilmembers raise the issue under Council Communications; the formal structure would allow Councilmembers to place an item on the agenda so that staff could respond and provide information; when staff puts the item on the agenda, Council would have the information to determine whether it wants to move the item forward on the agenda.

Councilmember deHaan stated it is no different if Councilmembers go

to the City Manager and request the matter be placed on the agenda.

Mayor Johnson stated the problem with that [individual Councilmembers directing placing items on the agenda] is that it gets into the area of one Councilmember directing staff.

Councilmember deHaan stated the Councilmembers are not doing so.

Mayor Johnson stated agenda items have staff reports; one Councilmember directing staff to do necessary work, create a staff report and place the matter on an agenda is in violation of the Charter.

Councilmember deHaan stated said situation has not occurred on the current Council's watch.

Councilmember Matarrese stated that he cannot remember said event happening; that he has never gone to the City Manager and requested a matter be placed on the agenda; that he brings up the issue under Council Communications to get the consensus to agree to place the matter on the agenda.

Councilmember deHaan stated big box is an example; there was not a full vote by the Council, however, bringing up and discussing the issue was still a healthy thing; that he wants to put matters on the agenda to hear more about the issue, costing staff hours is a different thing.

Mayor Johnson stated that she has not gone to the City Manager and requested something be placed on the agenda; it sounds like Councilmembers have not done so; that she views the proposal as formalizing what is done now; the Council has always been very generous in complying with requests [to place matters on the agenda].

Councilmember deHaan stated there have not been problems in the past; that he does not foresee future problems; questioned whether this [the proposal] is Mayor Johnson's recommendation.

Mayor Johnson responded in the negative.

Councilmember deHaan inquired who put the matter on the agenda.

Mayor Johnson responded it was part of the workshop.

The City Manager stated it was an outcome of the workshop; part of the task to staff was to develop the form; due to the way the system is set up, a resolution is required to put a new section on

the agenda.

Mayor Johnson stated that she has no problem with Council communicating with staff; that she was on the Council when Council voted to get rid of the Council-staff communication rules established by a prior City Manager; the Council has to be careful with individual Councilmembers directing staff; that she does not see how a matter can be placed on the agenda without numerous staff hours being spent.

The City Attorney stated Council cannot legally take a consensus action regarding items raised under Council Communications because there has not been a description on the agenda and the public does not know what may be brought up; the purpose of the formalized rule is to provide an opportunity to get the public involved in the discussion; if the matter is submitted ahead of time, it can be placed on the agenda under the new section with a sufficient description; there will not be a staff report yet so staff resources will not have been expended; however, the title can be a sufficient description so that the public understands what will be considered, Council can take an action that night, there could be no action taken, or Council could request a formal staff report and more information at a future meeting; the purpose is to permit a legal action to be taken and allow public participation.

Councilmember Matarrese stated said explanation clarifies the matter and removes the chance of it becoming a gag rule; the matter can be discussed and a vote can be taken, which cannot occur under Council Communications; the proposal enhances the ability to get something from a single Councilmember heard in a fashion noticed to the public without running into the legal problem of providing direction, even by consensus, on a matter that was not on the agenda.

Councilmember deHaan stated what the Council is doing today is bringing the matter as an agenda item; questioned why a separate agenda section is needed to do it.

The City Attorney stated the Council has never violated the Brown Act during Council Communications because a vote has never been called for; the City Manager has voluntarily placed a matter on the agenda or provided information upon seeing an interest from one or more Councilmembers; the process is being formalized to provide greater public participation; the matter is a follow up of the issue addressed at the workshop.

Councilmember deHaan stated that he pulled the February 6, 2006 minutes regarding the war resolution and there was an official



vote; requested the record be reviewed.

The City Attorney stated there can be a vote if the matter is placed on the agenda.

Councilmember deHaan stated the matter was raised by the public.

Mayor Johnson stated that the matter was on the agenda.

The City Manager stated a title was placed on the agenda under Council Communications; Council Referral would be the proper place for such an item.

Councilmember Matarrese inquired how one Councilmember directing the City Manager to place an item on an agenda tests against the Charter's provision that the Council provides direction to the City Manager.

The City Attorney stated under the Charter, the City Manager is responsible for operations and implementing the policy decisions of the majority of Council; a majority of Council is required to direct the City Manager to take an implementing action or to implement anything within the realm of operations.

Councilmember Matarrese inquired whether that includes putting the agenda together.

The City Attorney responded putting the agenda together is part of operations; the City Manager controls the agenda.

Mayor Johnson inquired whether one Councilmember directing a matter be placed on the agenda is a Charter violation.

The City Attorney responded making a request is not a Charter violation; it is up to the City Manager to put something on the agenda if she determines that it is an operational matter that comes under her authority under the Charter; it does not matter that one Councilmember may have suggested it; however, no Councilmember individually has the authority to direct the City Manager to do a certain thing a certain way if it is under operations; a cleaner way is to try to find a way to seek consensus.

Councilmember Gilmore stated that she cannot recall a Councilmember raising something under Council Communications that he or she wanted placed on the agenda and there not being a consensus or that the matter did not come up later as an agenda item; Councilmembers are very generous with each other and pretty much put everything on

the agenda for discussion; with said history for background, she would suggest that [staff report item] b state: "The City Council after discussing the item may do any of the following;" she would take out number 1) [take no action] because, by and large, the Council does take an action, the issue is discussed, the matter might be deferred, which is even taking an action; she wants to make sure whatever the item, that the matter gets discussed; putting the matter on the agenda ensures that the matter is discussed; numbers 2 and 3 can be left as is; she would suggest that the practice be implemented and, six months after adoption, the issue be placed on an agenda to discuss whether Council likes the practice and hear what the public thinks.

Councilmember Matarrese inquired whether said suggestion was a motion, to which Councilmember Gilmore responded in the affirmative.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember deHaan stated the City Attorney indicated that the City Manager has the authority [over the agenda]; inquired how an item is placed on the agenda under the jurisdiction of the City Attorney or City Clerk.

The City Attorney inquired whether Councilmember deHaan meant Closed Session items, to which Councilmember deHaan responded in the negative.

The City Attorney stated the only things that she has the power to put on the closed session agendas are certain attorney-client privileged communications within the Brown Act; she can put said matters on the agenda because she needs to be able to talk to the Council since she works directly for the Council; however, she does not have any authority to go to the City Manager and request that a matter be placed on the agenda; she has no such power under the Charter; she is not a policy maker and is not involved in operations.

Councilmember deHaan stated there would be an upcoming discussion on Charter amendments, which do not come under the City Manager.

Mayor Johnson stated the matter comes under the voters.

Councilmember Matarrese stated a majority of the Council gave direction to place Charter review on the agenda; this [the proposal] puts the items into public view; when an individual Councilmember wants something on the agenda, which the City Manager does not have time for, the item can get on the agenda for

discussion and a potential action from the entire Council with full public notification, in full public view with a published version of what is going to be discussed; inquired whether he understands correctly.

The City Attorney responded in the affirmative; stated if anything the proposal is a way of ensuring that matters of interest to individual Councilmembers get on the agenda because Council would not be dealing with just City Manager discretion.

Councilmember deHaan inquired whether Vice Mayor Tam has information about other cities practices.

Vice Mayor Tam responded the City of Palo Alto adopted a similar protocol as one way to address openness and public transparency regarding discussions between an individual Councilmember and the City Manager.

Councilmember deHaan stated the City's current procedure brings it out in the open.

Vice Mayor Tam stated the procedure allows Council to formalize it [the procedure].

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Gilmore, Matarrese, Tam and Mayor Johnson - 4. Noes: Councilmember deHaan - 1.

Councilmember Gilmore noted that the matter would return in six months and [staff report] item 1 was deleted.

#### REGULAR AGENDA ITEMS

(07-570) Recommendation to accept the Quarterly Sales Tax Report for the period ending June 30, 2007.

The Finance Director gave a brief presentation.

Mayor Johnson inquired whether the next report could provide the sales tax percentage in other cities budgets, to which the Finance Director responded possibly.

Vice Mayor Tam stated that Page 2 notes that construction sales posted the largest increase related to building materials and wholesale; Alameda does not have a Home Depot.

The Finance Director stated Alameda has other businesses in town that are classified as being part of the construction and wholesale

category.

Councilmember Matarrese stated the business that fabricates windows on Oak Street would be classified in said category; the report is good; a two-year budget will be adopted next June; the revenue stream is flat; auto dealerships will be on the decline; requested that the report be posted to the website for public review.

Councilmember deHaan inquired whether taxes would be impacted by approximately one third because of a decline in auto sales tax.

The Finance Director responded there are a variety of auto dealers such as used auto dealers and yacht sales.

Councilmember deHaan stated yacht sales have declined because a portion of a Marina was closed down for housing development; used car dealerships will be lost when the new car dealership moves out.

The Finance Director stated there are independent used car lots.

Councilmember Gilmore stated the report is timely because a local newspaper editorial exhorted residents to spend money locally; the City needs to promote businesses on the Island.

The Finance Director stated the referenced editorial noted that every penny of the sales tax comes to Alameda, which is not true; Alameda only receives three-quarters of one percent.

Vice Mayor Tam stated that the Alameda Towne Center has been undergoing construction in the last two years; inquired whether the new stores would offer hope for some minor recovery to offset the auto dealership.

The Finance Director responded that she is not sure that there will be a total offset; stated some improvement has been made; more improvement is anticipated as newer stores finish construction and come on line; the impacts from Old Navy and TJ Max are not known because the report only covers the period ending June 30.

Mayor Johnson stated that Park Street sales tax generation north and south of Lincoln Avenue is over \$500,000 for the second quarter of 2007; inquired what the City of Albany has that makes sales tax generation higher than Alameda.

Councilmember Gilmore responded the City of Albany has a Target.

Councilmember deHaan stated that people need to pay attention to the chart that shows General Fund distribution; the impact will be

on the General Fund when shortages occur, particularly for Police and Fire.

Vice Mayor Tam moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL COMMUNICATIONS

(07-571) Consideration of Mayor's appointment to the Rent Review Advisory Committee.

Mayor Johnson appointed Jerome Harrison.

(07-572) Councilmember deHaan noted that he would place the matter of campaign reform on the agenda using the Council Referral process; he would like to see limits on the amount from individual donors and the total amount spent for a campaign; he hopes to get support in moving the matter forward.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Regular Meeting at 8:56 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -DECEMBER 4, 2007- -6:30 P.M.

Mayor Johnson convened the Special Meeting at 6:30 p.m.

ROLL CALL - Present: Councilmembers deHaan, Gilmore,  
Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(07-560) Conference with Labor Negotiators; Agency Negotiators:  
Craig Jory and Human Resources Director; Employee Organizations:  
All Public Safety Bargaining Units.

Following the Closed Session, the Special Meeting was reconvened  
and Mayor Johnson announced that Council received a briefing on  
the status of negotiations.

Adjournment

There being no further business, Mayor Johnson adjourned the  
Special Meeting at 7:35 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown  
Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL,  
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY (ARRA), AND  
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING  
TUESDAY- -DECEMBER 4, 2007- -7:31 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 8:57 p.m.

ROLL CALL - Present: Councilmembers/Board Members/Commissioners  
deHaan, Gilmore, Matarrese, Tam, and  
Mayor/Chair Johnson - 5.

Absent: None.

CONSENT

Mayor/Chair Johnson announced that the recommendation to authorize the use of up to \$50,000 [paragraph no. 07-051CIC], and the recommendation to approve a \$300,000 loan [paragraph no. 07-052 CIC] were removed for discussion.

Councilmember/Board Member/Commissioner deHaan moved approval of the remainder of the Consent Calendar.

Councilmember/Board Member/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*07-050 CIC) Minutes of the Special Community Improvement Commission Meeting of November 20, 2007. Approved.

(\*07-051 CIC) Recommendation to authorize the use of up to \$50,000 in interest earnings to complete the enclosure of the Historic Alameda Theater Balcony Access Corridor and related improvements.

Commissioner deHaan stated that the Commission discussed bringing back value engineering items if money became available; inquired whether other worthy items should be considered.

The Development Services Director responded the CIC would not be required to make other significant, hard construction improvements to the Historic Theater in the future; stated decorative or restoration items could be considered; the mezzanine balcony rehabilitation and restoration is the last hard construction item left unfinished; the Historic Theater is required to have certain fire and life safety exiting paths as well as American with Disabilities (ADA) access; the proposed platform is part of the

existing path for fire safety as well as ADA access; ADA access would be provided using an elevator system in the new theater; the second floor was always assumed to be part of the second phase; the balance of the second story improvements are the responsibility of the developer.

Robb Ratto, Park Street Business Association (PSBA), stated that he supports the staff recommendation; he is concerned with safety issues; PSBA urges Council to accept the staff recommendation.

Chair Johnson stated the enclosure should be done now since money is available.

Commissioner deHaan inquired whether a canopy would be used or a full enclosure, to which the Development Services Director responded a full enclosure.

Commissioner Gilmore stated the enclosure should be done now because the contractors are on site and there would be minimal disruptions.

Commissioner Matarrese stated that staff and the developer did an excellent job; he supports the staff recommendation.

Commissioner Matarrese moved approval of the staff recommendation.

Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(07-052 CIC) Recommendation to approve a \$300,000 loan to Alameda Entertainment Associates, L.P. for rehabilitation and restoration of the mezzanine balcony in the Historic Alameda Theater and for augmentation of the Cineplex construction contingency budget.

The Development Services Manager gave a brief presentation.

Commissioner Tam stated that the use of \$691,000 Merged Area Bond is fairly restricted.

The Development Services Manager stated that the 2003 Merged Area Bond anticipated financing a number of projects; \$4 million was unspecified; using the Bond for the Library was not anticipate; \$2 million was pledged to the Library to finish construction; State funding for the library is closed out; the unused money was intended to come back to the CIC for other projects.



Commissioner Tam stated the remainder of the fund cannot be used for branch libraries because said libraries are not in redevelopment areas.

The Development Services Manager stated typically funds have to be used in redevelopment project areas or benefit redevelopment project areas.

Commissioner deHaan stated the West End library would fall well within said criteria because the library is the only library in the area; he is concerned with 738 seats; inquired whether there is a market for 738 seats.

The Development Services Director responded she called a number of theaters; stated three or four shows can be sold out in a row on an opening day or the day before.

Commissioner deHaan stated that previous discussions addressed utilizing the balcony differently; 254 seats were never anticipated in previous discussions.

Kyle Connor, Developer, stated theater strategy is to double track; a lot of auditoriums are needed to double track; capacity is needed to meet demand; 1,300 people attended a silent film festival at the Castro Theater in San Francisco.

Commissioner deHaan inquired what is the next largest theater other than the main theater.

Mr. Connor responded three theaters have approximately 200 seats.

Commissioner deHaan stated that the Castro Theater film festival was a special event.

Mr. Connor stated that hopefully Alameda will have film festivals; films pay off in approximately 2.7 weeks; 90% of business is done within the first three weeks; facilitating capacity is important.

Commissioner deHaan inquired how the other portion [of the balcony] would be closed, to which Mr. Connor responded drapery would be used.

Robb Ratto, PSBA, urged approval of the staff recommendation; stated the community wants the balcony open.

Commissioner Matarrese stated the \$2 million was not designated for

the Library; inquired whether the \$2 million was redevelopment money that was held in case Library costs escalated, to which the Development Services Director responded in the affirmative.

Commissioner Matarrese stated there is still Measure O money that is supposed to go for branch upgrades; a report is needed on the matter at some point; he would rather open the mezzanine balcony now; people saw the potential for the theater; he thinks the loan should be given to complete the job; twelve public days might demand 800 seats.

Commissioner Matarrese moved approval of the staff recommendation.

Commissioner Gilmore seconded the motion.

Under discussion, Commissioner Gilmore requested a run down on restoration that has been accomplished.

The Development Services Director stated the project has gone very well; major, significant repairs and alterations were made to the ceiling; all the trim molding was painted; original light fixtures were installed; fabric workers restored the original curtain; artisans did all of the leaf work; the original art work was put back in place; the detail is phenomenal; some of the original furniture might be recovered.

Chair Johnson stated the marquee sign is beautiful.

Commissioner deHaan stated that the Historic Alameda Theater is one of the better restorations; separating the upper balconies into theaters would be a shame; inquired how many seats will be gained, to which the Development Services Director responded 150.

Commissioner deHaan requested a breakdown of efforts made for the transition into the Cineplex.

The Development Services Director stated some of the original carpeting will be put back into the Historic Theater; the Cineplex will have similar carpeting and upholstery; similar icons and images have been carried through the Cineplex.

Commissioner Gilmore requested staff to update the website photos.

Commissioner Tam stated that the schedule shows a March opening; all contingencies are being used; inquired whether the CIC would be requesting another loan in the next four months.

The Development Services Director responded there is approximately \$106,000 left in contingency.

Commissioner Tam inquired whether staff is requesting \$200,000 on top of the loan, to which the Development Services Director responded in the negative.

Commissioner Matarrese inquired whether the \$300,000 loan is coming from undesignated bond money, to which the Development Services Director responded in the affirmative.

On the call for the question, the motion carried by unanimous voice vote - 5.

(\*07-053 CIC) Recommendation to accept the Annual Report and authorize transmittal to the State Controller's Office and the City Council. Accepted.

(\*07-573 CC/\*07-054 CIC) Recommendation to accept transmittal of the: 1) Comprehensive Annual Financial Report (CAFR) for Fiscal Year ended June 30, 2007; 2) Auditor's Agreed Upon Procedures Report on compliance with Vehicle Code Section 40200.3 Parking Citation Processing; 3) Agreed Upon Procedures Report on compliance with the Proposition 111 21005-06 Appropriations Limit Increment; 4) Police and Fire Retirement System Pension Plans 1079 and 1092 Audit Report for Fiscal Year ended June 30, 2007; 5) Metropolitan Transportation Commission Grant Programs Financial Statements for Year ended June 30, 2007; 6) Community Improvement Commission Basic Component Unit Financial Statements for the Year ended June 30, 2007; and 7) Alameda Reuse and Redevelopment Authority Basic Component Unit Financial Statements for the Year ended June 30, 2007. Accepted.

#### AGENDA ITEMS

(07-574CC/07-055CIC) Public Hearing to consider approval of a first addendum to the Alameda Landing Mixed-use Development Project Supplemental Environmental Impact Report, first amendment to the Development Agreement, and first amendment to the Disposition and Development Agreement for the Alameda Landing Mixed Use Project to modify the Public Waterfront Promenade;

(07-574A CC) Resolution No. 14162, "Approving and Authorizing Execution of an Amendment of the Disposition and Development Agreement (Alameda Landing Mixed Use Project) with Palmtree Acquisition Corporation." Adopted; and

(07-055A CIC) Resolution 07-151, "Approving a First Addendum to the Alameda Landing Mixed Use Development Project Final Supplemental Environmental Impact Report and Authorizing the Executive Director to Amend the Disposition and Development Agreement (Alameda Landing Mixed Use Project) with Palmtree Acquisition Corporation." Adopted; and

(07-574B CC) Introduction of Ordinance Approving Development Agreement Amendment DA-06-0003 to the Development Agreement (Alameda Landing Mixed Use Commercial Project) By and Between the City of Alameda and Palmtree Acquisition Corporation, dated January 16, 2007. Introduced.

The Base Reuse and Community Development Manager provided a Power Point presentation.

Dan Bucko with SMWM provided a brief presentation on wharf redesign.

The Base Reuse and Community Development Manager provided a brief summary of the proposed modifications to the Disposition and Development Agreement (DDA).

Councilmember/Commissioner Gilmore inquired whether utility lines would be above ground going to Clif Bar and restaurants.

The Base Reuse and Community Development Manager responded the existing 115 kV line would be relocated into the Mitchell Avenue right-of-way; stated Catellus would perform the trenching and install the conduit necessary for the ultimate undergrounding; the 115kV line starts at the High Street Bridge, runs the entire length of the City's waterfront, and terminates at Pacific Avenue and Main Street adjacent to Alameda Point.

Councilmember/Commissioner deHaan inquired what is the estimated insurance cost.

The Base Reuse and Community Development Manager responded the cost has not been calculated; stated the idea is to obtain insurance if available at commercially reasonable rates.

Councilmember/Commissioner Matarrese inquired what would be a commercially reasonable rate, to which the Base Reuse and Community Development Manager responded that she would provide the information.

Councilmember/Commissioner Gilmore stated the Alameda Landing tax

increment would be parceled off; Merged Improvement Areas would be paid back first with tax increment from other areas; requested clarification on the matter and whether Alameda Point would be affected.

The Base Reuse and Community Development Manager stated Alameda Point is in the Alameda Point Improvement Project (APIP) redevelopment area and would not be affected; the Merged Area is the West End Community Improvement Project (WECIP) and Business and Waterfront Improvement Project (BWIP); the Merged Area Bonds were issued in 2003 and were an existing condition when the DDA was approved with Catellus in 2006; the bond was sized and assumed a zero tax increment from Alameda Landing because the property is not on the tax roll; all of the tax increment in the entire project area is pledged to the repayment of the debt; typically underwriters have a debt to loan value ratio when debt is issued; technically, the Alameda Landing tax increment is already pledged to the repayment of the existing obligation; the Bond was sized when there was no tax increment at Alameda Landing; the project area should have no trouble making the bond payment without Alameda Landing tax increment; eventually, property taxes will be on the rolls for Alameda Landing.

Vice Mayor/Commissioner Tam stated that some of the proposed Development Agreement (DA) amendments spread the cost and shift some of the liabilities; the staff report notes that the City's financial obligations do not increase but overall project costs increase and references just the acquisition of the property; inquired whether that is the only additional cost.

The Base Reuse and Community Development Manager responded there is a one time cost for fencing the wharf and acquisition of the property insurance; stated the 115kV obligation would not be triggered until the DA is amended to remove the project obligation; the process is sequential.

Councilmember/Commissioner deHaan requested elaboration on the utility assessment district; inquired whether an assessment for the wharf is required.

The Base Reuse and Community Development Manager responded a Municipal Utility District is anticipated which would pay for maintenance and operations of the public open spaces such as the wharf; the undergrounding district would be just like the Rule 20A Undergrounding District where there is an assessment.

Councilmember/Commissioner deHaan inquired what the district would cover.

The Base Reuse and Community Development Manager responded the district would be comprised of the properties from Alameda Landing to Alameda Point.

Councilmember/Commissioner deHaan inquired whether there would be an assessment fund to maintain the wharf.

The Base Reuse and Community Development Manager responded the assessment fund would be from the Municipal Utilities District, covers more than the wharf, and includes other City services.

Mayor/Chair Johnson opened the public portion of the hearing.

George Phillips, Alameda Boys and Girls Club, urged approval and expedition.

Christopher Buckley, Alameda, encouraged the developer to keep both warehouses.

Roberta Rockwell, Alameda East Bay Miracle League, stated that she supports the Alameda Landing Project.

Richard W. Rutter, Alameda, stated he thought that the May 29 plan was great; he was distressed when the September amendment came before the Planning Board and the western portion of the wharf and a major structure were removed; he thinks that there may be ways of saving and repairing the pier over time.

Mario Mariani, Alameda, stated he supports the changes.

Don Lindsey, Alameda, encouraged moving forward with the project.

There being no further speakers, Mayor/Chair Johnson closed the public portion of the hearing.

Councilmember/Commissioner Matarrese inquired whether the buildings would be demolished or deconstructed and reused.

The Base Reuse and Community Development Manager responded the buildings would be a combination of deconstruction and potential demolition; stated the existing DDA does not obligate the developer to maintain the warehouses; the Planning Board added a Condition of Approval which states that prior to making a decision about the

disposition of the second warehouse, the developer will go back to the Planning Board and make a presentation regarding the feasibility of retaining the warehouse; the May and September plans do not contemplate the retention of the second warehouse; currently, the Plan calls for the retention of the first warehouse for Clif Bar; several other warehouses south of the wharf will be partially deconstructed and made into parking sheds; the developer is committed to recycle and reuse elements if the second warehouse is not used.

Councilmember/Commissioner deHaan inquired what is the office space square footage for Clif Bar, to which the Base Reuse and Community Development Manager responded approximately 100,000 square feet.

Councilmember/Commissioner deHaan inquired what would be the remaining square footage of the building, to which the Base Reuse and Community Development Manager responded approximately 300,000 square feet.

Councilmember/Commissioner deHaan inquired whether three to five story buildings are still contemplated on the wharf.

The Base Reuse and Community Development Manager responded the Master Plan provides for a maximum of five stories; stated the height limit was reduced to 85 feet last year.

Councilmember/Commissioner deHaan inquired whether the waterfront would have five-story buildings, to which the Base Reuse and Community Development Manager responded possibly.

Councilmember/Commissioner deHaan inquired whether the issue would be contrary to the planning principles of having more open, step down designs to the waterfront.

The Base Reuse and Community Development Manager responded the Master Plan provides for a maximum of five stories; stated the new buildings would be set back from the waterfront; there would be waterfront access and open space more than 100 feet from the water; the Bay Conservation and Development Commission (BCDC) requires a minimum 100 foot setback from the water.

Councilmember/Commissioner deHaan inquired what would be the cost estimate for retrofitting the wharf.

The Base Reuse and Community Development Manager responded between \$30 million and \$35 million; stated San Francisco waterfront

improvements are estimated at \$1 billion; the Cruise Terminal did not go forward because of a \$144 million bill to retrofit the piers at the Cruise Terminal; San Francisco's challenge is much bigger than Alameda Landing but is similar to the challenges of upgrading the wharf to current seismic conditions and Uniform Building Code as well as geotechnical issues.

Councilmember/Commissioner deHaan inquired what the anticipated cost would be.

The Base Reuse and Community Development Manager responded the cost would be approximately \$15 million in order to accommodate Clif Bar.

Councilmember/Commissioner deHaan inquired whether said cost was new compared to the original estimate, to which the Base Reuse and Community Development Manager responded in the affirmative.

Councilmember/Commissioner deHaan inquired what was the original estimate.

The Base Reuse and Community Development Manager responded that she would need to check; stated an additional \$30 million to \$35 was originally budgeted to retrofit the wharf and is cut back to \$15 million to preserve the warehouse for Clif Bar; the developer states that it is infeasible to spend an additional \$15 million to \$20 million to preserve the remainder of the wharf; the developer believes that the redesign maintains a lot of the public amenities and benefits and is a better plan in some ways in that the entire waterfront experience is not seven feet above the water; there is the ability to step down and access the water at the water level.

Councilmember/Commissioner Matarrese stated that he appreciates the history; construction costs escalate; costs for preserving the warehouse and rest of the wharf are not worth holding up the project; everything should be done to recycle materials if a couple of buildings are lost; historic significance can be preserved in photos and videos; the buildings are warehouses on a dock; he likes the idea of getting closer to the water's edge and getting millions of dollars in sales tax which helps to have a safe City and good parks; everything should be done to underground the 115kV line, including pursuing Homeland Security money; keeping the project on track is important.

Councilmember/Commissioner Tam stated that she concurs with Councilmember/Commissioner Matarrese; there has been a six-month



delay in trying to get Clif Bar onto the site; conditions will change; seventy-five percent of the piers are compromised; the recommended amendments accommodate changed conditions in a way that does not expose the City to additional financial obligations.

Councilmember/Commissioner Tam moved adoption of the resolutions and introduction of the ordinance.

Councilmember/Commissioner Matarrese seconded the motion.

Under discussion, Councilmember/Commissioner Gilmore stated that she assumes that a future feasibility study would take into account the condition of the warehouse and piers and would be part of the question of whether or not the pier can be saved.

The Base Reuse and Community Development Manager responded in the affirmative; stated new technology might be available in five years that would make pier replacement more cost effective; stated the feasibility study would address requirements to retain the building as well as the requirement to do what needs to be done to the pier.

Mayor/Chair Johnson stated that it is time to move the project forward; the delay was unfortunate; opening up the waterfront and shoreline is great; BCDC would not approve building a pier over the water today; exposing more of the shoreline is good; inquired whether there is a timeframe for Clif Bar, to which the Base Reuse and Community Development Manager responded fall of 2009.

Councilmember/Commissioner deHaan stated that the phase is not going to be completely designed out within the next two to three years; his concern is how the waterfront office buildings are treated; he would be discouraged to see a five-story building flush on the shoreline; he hopes that the developer will look at other alternatives in the interim; the waterfront was always questionable and never thought to be something that could be saved; he is concerned with the amount of money that could be deferred from the project; he would like to see the money used in a better way to support the project and community.

On the call for the question, the motion carried by unanimous voice vote - 5.

(07-575 CC/07-056 CIC/ARRA) Recommendation to accept the Fiscal Year 2007 First Quarter Financial Report and budget adjustments.

The Finance Director gave a Power Point presentation.

Councilmember/Board Member/Commissioner Gilmore stated that Proposition 1A did not provide any protection for the City's redevelopment fund; requested clarification on the issue.

The Finance Director stated the last Educational Revenue Augmentation funds (ERAF) were \$711,000 out of \$5 million of property tax in the past years; the construction of a takeaway formula is unknown; redevelopment agencies are the most vulnerable.

Councilmember/Board Member/Commissioner Matarrese stated Council did not intend to use reserves for Beltline litigation costs; inquired what will be done in the future to prevent reoccurrence.

The Finance Director responded any direction for use of funds needs to come from the City Manager to the Finance Department and needs to have discussions on funding.

Mayor/Chair Johnson stated all money needs to be budgeted with approval of Council.

The Finance Director stated that she understands that the money was approved for payment from the Risk Management Fund.

Councilmember/Board Member/Commissioner Matarrese inquired whether audit practices and protocols are sufficient to catch any in the Finance Director's opinion; stated that authorization happened over a year ago; audits have been performed since that time; the matter is just coming to light now; inquired whether audit practices and protocols are sufficient.

The Finance Director stated the only way that an auditor would be aware of the issue was if substantial information was available about the fact that the litigation was directed by Council; the direction would be in the form of information from the City Manager and the City Attorney to Finance.

Councilmember/Board Member/Commissioner Matarrese inquired how the issue was discovered.

The Finance Director responded by review of the Risk Management Fund when the balance became a deficit.

Councilmember/Board Member/Commissioner Matarrese inquired whether the auditors look for deficits.

The Finance Director responded the auditors pointed out that it was a deficit this year but the issue was already determined.

Councilmember/Board Member/Commissioner Matarrese stated the Power Point presentation should be posted to the website and Council should receive a copy; the national economic environment affects California and will affect the City; thanked the Finance Director for doing a good job on the presentation.

Vice Mayor/Board Member/Commissioner Tam echoed Commissioner Matarrese's appreciation for the presentation; inquired how the City deals with replenishing or drawing down on the reserves from the 20% to 25% range.

The Finance Director responded the draw down was purposeful and well thought out by Council in terms of trying to meet unmet infrastructure needs.

Vice Mayor/Board Member/Commissioner Tam inquired whether reserves are replenished also.

The Finance Director responded reserves are replenished only by having revenues exceed expenditures; stated the expenditure budget is \$85.7 million; typically, not all money is spent and will go back into the fund balance; an absolute commitment cannot be made at this time.

Councilmember/Board Member/Commissioner deHaan stated there was a draw down on the reserves because of needed infrastructure; the draw down was supposed to be 25% to 23% and is now 21%; 18% is left and will leave approximately \$12 million; a lot of the \$12 million is obligated.

The Finance Director stated 18% leaves approximately \$15.5 million; the \$400,000 reserve designated for Fire Station 3 replacement is excluded; approximately \$6 million is loaned to other funds.

Councilmember/Board Member/Commissioner deHaan inquired whether the \$6 million could be called back.

The Finance Director responded the \$6 million could be called back, but the disaster would be pushed off to another area.

Councilmember/Board Member/Commissioner deHaan inquired what loans are in the \$6 million.

The Finance Director responded \$2.2 million is from Alameda Power & Telecom (AP&T) and is scheduled to be repaid in 2009; the remainder is all redevelopment agency loans.

Councilmember/Board Member/Commissioner deHaan stated Public Safety equates to approximately 60% of the budget and 30% of the staffing; the out years obligation is concerning; Public Safety retirement funds are escalating.

The Finance Director stated the actuarial evaluation was received in October from the Public Employee Retirement System (PERS); the City's contribution rate for Public Safety is remaining very close to 30% and is not increasing or decreasing significantly.

Mayor/Chair Johnson stated the dollar amount increases because of salary increases.

Councilmember/Board Member/Commissioner deHaan inquired whether immediate action is necessary to the extent of hiring freezes, etc.

The Finance Director responded department heads have been requested to restrain spending; stated discretionary spending should be postponed.

The City Manager/Executive Director stated department heads have been advised that a minimum of 1.5% needs to be saved; the budget is reviewed at weekly meetings; more changes may be necessary mid-year.

Councilmember/Board Member/Commissioner deHaan stated that out years are a real concern; different plans will need to be developed; requested elaboration on Proposition 1A.

The Finance Director stated the report includes an excellent description of Proposition 1A; the Governor has to declare that there is a severe State fiscal hardship; the State can temporarily suspend Proposition 1A basic protection of property tax; the Legislature has to agree by a two-thirds vote; a separate statute must be adopted that requires the State to repay local governments in three years and can be done only twice in ten years.

Councilmember/Board Member/Commissioner deHaan stated he has heard about a 25% cut; a 10% cut would be disastrous at a State level.

Councilmember/Board Member/Commissioner Gilmore stated one way to build up the General Fund reserves is by having revenues exceed

expenses; the other way is to not fund infrastructure, as was done in the past; Council decided that the City could no longer do that [not fund infrastructure]; tough choices will need to be made.

Councilmember/Board Member/Commissioner Matarrese stated that he is not overly concerned with replenishing the reserves; the reserve was built partially on the PERS bonanza that occurred in the dot.com boom.

The Finance Director stated two years had a zero percent contribution; the money was allowed to flow back into the fund balance rather than setting the money aside to be used in the future for payments.

Councilmember/Board Member/Commissioner Matarrese stated that his biggest concern is balancing the budget and delivering essential services; the big difference between 2002 and today is that there was not \$10 billion a month of tax dollars flowing out of the economy at the federal level; tonight's discussion sets the stage for what will be a very tough fiscal environment for the foreseeable future; it is important to put on the brakes now.

Mayor/Chair Johnson inquired how department heads cut budgets when there are already built in increases.

The Finance Department responded salary and benefits are contracted; a position can be left vacant.

Mayor/Chair Johnson stated department heads are being asked to cut budgets by 1.5%; however, budgets are increasing more than 1.5% because of fixed increases.

Councilmember/Board Member/Commissioner Matarrese stated Contracts are tied to salaries; the salaries are paid to people; the blunt end is either not filling the position or lay offs.

Councilmember/Board Member/Commissioner deHaan inquired how long the City had the 25% reserve.

The Finance Director responded Council was presented with a policy for adoption in late 1997 or early 1998.

Councilmember/Board Member/Commissioner Matarrese requested a copy of said policy.

Vice Mayor/Board Member/Commissioner Tam stated Alameda is one of

the few cities that has a reserve; many cities are being hit hard; the League of California Cities cautioned all cities regarding Proposition 1A; it is easier for the Legislature to raid local government than it is to go up against the educational lobbyists.

Mayor/Chair Johnson stated the City of Oakland was audited; \$3 million is questionable on payroll; inquired whether an operational review or audit would be beneficial to Alameda.

The Finance Director responded an operational review never hurts; there is a great deal of coordination between Human Resources and the Finance Department; a review could be scheduled later in the fiscal year and there has been some practice with the conversion of the new payroll system.

Mayor/Chair Johnson stated operational reviews were performed with significant findings for AP&T and the golf course.

Vice Mayor/Board Member/Commissioner Tam stated that the City of Oakland did a performance audit; inquired what would be the cost for such an audit.

The Finance Director responded a Request for Proposal (RFP) would need to be done.

The City Manager/Executive Director stated AP&T and the golf course are enterprise funds and are different.

The Finance Director stated a RFP could be issued in the spring.

Mayor/Chair Johnson stated expenditures are 23% to 25% generally; some are lower; inquired whether some categories are over budgeted, such as Police Contract overtime, abandoned vehicle abatement, and advance life support.

The Finance Director responded the Police Contract overtime does not follow a straight line and is based upon the need of outside persons to contract with the Police Department for overtime, such as for school dances.

Mayor/Chair Johnson inquired whether there is enough in the budget for additional animal shelter staffing and improvements.

The City Manager/Executive Director responded a grant fund could be used; stated funding impacts would need to be identified.

Mayor/Chair Johnson stated the golf course had more of a shortfall than was anticipated; inquired how much is left in the golf course fund, to which the Finance Director responded \$1.9 million.

Mayor/Chair Johnson stated the golf course fund is burning through approximately \$60,000 per month.

Councilmember/Board Member/Commissioner deHaan stated the \$15.5 million [reserve] is pretty well obligated; he believes that staff has the skills in getting requirements in order; having an outside review process would be a shame; actions have to be weighed; AP&T and the golf course are other concerns.

Mayor/Chair Johnson inquired whether a 1.5% reduction is aggressive enough for the next six or seven months.

The City Manager/Executive Director responded the 1.5% reduction is a beginning; stated the matter will be monitored; she believes that the reduction fits at this point; direction can be changed if necessary.

Mayor/Chair Johnson stated Council needs to consider how cuts are made.

The City Manager/Executive Director stated the matter would be brought back to Council mid year.

Vice Mayor/Board Member/Commissioner Tam moved approval of the first quarter financial report and requested recommended appropriations.

Councilmember/Board Member/Commissioner Matarrese seconded the motion, which carried by unanimous voice vote - 5.

#### ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 11:41 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk  
Secretary, Community Improvement  
Commission

The agenda for this meeting was posted in accordance with the Brown Act.